

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

21 CR-383-RB

RICARDO ANTONIO NOVONDO-CEBALLOS,

Defendant.

**RICARDO NOVONDO-CEBALLOS' SENTENCING MEMORANDUM AND
REQUEST FOR TIME SERVED SENTENCE**

RICARDO NOVONDO-CEBALLOS has achieved a complete self-transformation in the past thirteen years. Since his deportation in 2008, he has built a meaningful life as a devoted father, a driven entrepreneur, and a man of faith. This transformation demonstrates that a lengthy sentence is not necessary to rehabilitate Mr. Novondo-Ceballos, to deter him from future criminal conduct, to protect the public, or to underscore the seriousness of the offense. Mr. Novondo-Ceballos respectfully requests a downward variance to a sentence of time served, or 329 days, whichever is shorter.

DISCUSSION

I. History of the Case

Mr. Novondo-Ceballos was arrested on December 16, 2020 and charged with Reentry of a Removed Alien, in violation of 8 U.S.C. 1326(b)(2). He has been in continuous custody at the Otero County Prison Facility since his arrest, and entered a plea of guilty on September 2, 2021. Mr. Novondo-Ceballos faces an advisory guideline

sentencing range of 12 to 18 months, based on a total offense level of twelve and a criminal history category of II. (PSR ¶¶ 10-23).



History and Characteristics of the Defendant

When Ricardo was only a first grader, his parents departed for the United States, fleeing violence, instability and extreme poverty in Honduras. For the next three years, Ricardo and his older brother Oscar lived with their maternal grandparents, communicating infrequently with their parents via phone calls, letters and the occasional gift. Although his grandmother was a loving woman who provided for the boys as best she could, Ricardo recalls these years as a time of fear, pain and confusion.

At the end of those three long years, Ricardo (then nearly 10 years old) and his brother Oscar (nearing 13 years of age) were finally reunited with their parents in Miami, where they began a new life. Upon landing at the Miami International Airport, Ricardo remembers his mother, Julia, running towards him. This image of her racing through the airport to hug him is one of his happiest childhood memories. Two years after Ricardo

and Oscar arrived in the United States, their younger sister Michelle was born. All three children lived quintessentially American childhoods, and a strong bond developed between Ricardo and Michelle. (*Exh. B.*)

The depth and breadth of Ricardo's ties to the United States shows clearly in his lifelong love of baseball and American football. Both of Ricardo's parents worked hard, but providing for three children proved difficult, and the family rarely found the spare cash to attend Florida Marlins games. Undeterred, the family watched spring training, annually. In 1997, Ricardo got an incredible opportunity. He stepped onto the field at the Florida Marlins stadium, playing for the Roberto Clemente Park youth team in a league championship game. Making the moment even sweeter, the Roberto Clemente Park team won the tournament. Close to twenty-five years later, his face still lights up as he describes the feeling of being on the field in his favorite team's stadium.

In 1999, just as Ricardo graduated high school, he, his brother and his parents were among the first Honduran nationals to receive Temporary Protected Status, opening a world of possibilities to him.¹ Where Ricardo's older brother Oscar had graduated from high school to find university and college doors closed to him as an undocumented student, Ricardo's newly acquired TPS allowed him to apply for scholarships and to dream of attaining a bachelor's degree. He enrolled at Florida Atlantic University, received a scholarship, and began pursuing his own version of the American dream. For

¹ Continuing of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, 86 F.R. 50725 (September 10, 2021). <https://www.federalregister.gov/documents/2021/09/10/2021-19617/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-el>

the next two years, Ricardo lived a normal college student's life: attending classes and enjoying the freedoms of young adulthood. Sadly, he strayed from this promising path and into darkness during his junior year of college.

Like many young people, Ricardo became distracted from his goals and aspirations by the promise of love at first sight when he met Valerie Gatti. Unfortunately, this romance was doomed from the start, and the relationship would take both Valerie and Ricardo to many dark places before it disintegrated. Although Ricardo's family lived in a troubled neighborhood of Miami, their bonds were strong, their faith was central to family life, and education was always priority number one. In Ms. Gatti's family, by contrast, drug and alcohol abuse wrecked havoc. Ms. Gatti struggled to understand Ricardo's motivation to pursue a bachelor's degree, reasoning that even without a high school degree, she was able to support herself. The two loved each other, but struggled to resolve their differences. Eventually, Ricardo found himself questioning his direction in life and feeling unmotivated in school. By spring of his junior year of college, he stopped attending classes and withdrew his enrollment.

Over the next several years, Ricardo and Valerie tried their best to build a life together. She obtained her graduate equivalency degree, the pair married in 2005, and on August 4, 2006, the two found themselves working at the same Nordstrom's store in Miami. Placed in the shoe department on the third floor, Ricardo was a natural salesman. Valerie worked in the same store, on the second floor. Neither person was reaching their full potential. Trouble loomed on the horizon.

On August 4, 2006, Ricardo made a terrible decision that hurt a young person and destroyed his family's relationships with some of their closest friends. Although he has come to understand the underlying reasons for his actions and he is working diligently to address his errant thought patterns, he still struggles to understand how he could have victimized someone whose parents were incredibly close friends of his family. Before 2006, the victim's parents planned each move alongside Ricardo's parents, making sure their two families would always be in the same apartment complex. The two families celebrated holidays and special occasions together and shared frequent Sunday meals. In the wake of Ricardo's actions, the two families' relationships with one another shattered.

On the day of his arrest, Ricardo was helping a customer select a pair of shoes at Nordstrom's when his phone rang. A detective from the Miami-Dade Police Department was waiting for him outside the store. Disheartened, afraid, and resigned to what lay ahead, Ricardo called Valerie and asked her to meet him outside the store. Without explaining the reasons for his arrest, he kissed his wife goodbye, reassured her and got into the back of the waiting squad car. He never saw her again.

Ricardo does not dispute the facts of the August 2006 incident. In the interrogation room at the Miami-Dade Police Department, he cried as he answered the detectives' questions completely and honestly. He continued to accept responsibility for his actions throughout the court proceedings, and he entered a plea of guilty on January 26, 2007. He was sentenced to twenty months' incarceration; five years of community supervision; and a lifetime of sex offender registry requirements. (PSR ¶ 21).

The next twenty months of incarceration represented a period of desperation, self-reflection, and loss for Mr. Novondo-Ceballos. Every day, he struggled to understand the immense pain his actions caused the victim, her family, and his parents. Even more painfully, he struggled to make sense of the reasons for his decisions.

As Ricardo sat in a cell, his friends and former classmates earned their bachelors' degrees, secured their first jobs, and began their adult lives. A young woman who graduated Miami Jackson High School with Ricardo was a corrections officer at one of the facilities where he was imprisoned. Her genuine disbelief at seeing Ricardo in an inmate's uniform unsettled him. Many friends wrote to him, and his family remained supportive. Ricardo read voraciously from the Bible, the books his family sent, and anything he could access in the prison library to avoid falling into self-pity and grief. When his release date came and Ricardo was transferred to an immigration and customs holding facility, Ricardo realized that his life in the United States was truly over. He did not contest his deportation.

Upon arriving in Honduras, Ricardo's journey with faith and personal growth continued. Walking through the airport, he panicked: "I have no money. I have no phone. Everyone I know is in Miami. How am I going to make my way to my parents' hometown?" At that moment, he recognized his cousin Daniela walking towards him. Incredibly, Daniela was returning from a vacation in Miami, where she had visited Ricardo's parents. The two connected and began their journey back to La Ceiba. This chance meeting in his moment of need profoundly altered his thought patterns, reigniting a sense of self-worth, sparking a strong desire to develop an ethic of service to others.

On a purely practical level, seeing Daniela in the airport gave Ricardo the opportunity to live in her family's home and join her father's construction business while he completed his bachelor's degree.

After arriving in La Ceiba, Ricardo launched a new beginning for himself. With help from his family, he enrolled in college at Universidad Católica and pursued a bachelor's degree in Civil Engineering. There, he met Patricia Lopez, a psychology student whose values, goals and growing faith closely matched his own. The pair quickly became inseparable. After graduating with their bachelor's degrees in 2014, the couple began building a future and a family for themselves. (*Exh. A*). They welcomed their son Dylan shortly after graduation. Patricia started work as a child psychologist at a local hospital. Ricardo accepted a series of projects from private companies by day, reserving evenings and weekends for starting his own business.



Over the next five years, life improved for Ricardo, Patricia and Dylan. Ricardo launched a business designing and building homes.² Patricia was promoted several times. Most importantly, Dylan enjoyed the support of two present, loving parents. The couple began discussing the possibility of more children, and Ricardo felt he was evolving in the direction God intended for him.

Nature and Circumstances of the Offense

The year 2020 brought tragedy, heartbreak and struggle to every corner of Earth; however, the scale of destruction in Honduras was magnified by two incredibly powerful hurricanes. Hurricane Eta demolished the country's infrastructure, leaving hundreds of thousands of people homeless, disrupting supply chains and causing the local economy to grind to a standstill.³ Although Patricia continued reporting to work daily throughout the pandemic, her paychecks simply stopped coming after hurricane Eta. Supply chain issues and workforce safety concerns forced Ricardo to pause many construction and remodeling projects. The family's financial situation quickly became desperate, and the complete absence of a social safety net or nearby family support made staying in La Ceiba untenable. After many heart-wrenching discussions with each of their parents in the United States, the family made the decision to leave Honduras.

²Ricardo Novondo-Ceballos, RINO Company Website, Rino.wix.com/rinohn.

³British Broadcasting Company, In Pictures: Hurricanes leave Honduras homeless and destitute, November 29, 2020, <https://www.bbc.com/news/world-latin-america-55064560>

On November 15, 2020, Ricardo, Patricia and Dylan left their home for the airport in San Pedro Sula, just as hurricane Iota dropped 11.25 inches of rain on La Ceiba.⁴ As the family travelled, they saw abandoned cars, destroyed houses, and roads awash in mud. Some estimates have placed hurricane Iota's total economic cost in Honduras at 1.25 billion United States dollars.⁵ For Ricardo, the difficulty of the journey underscored his desire to ensure a safe, secure future for Dylan in the United States.

Somewhere in Mexico, the family was separated and everything Ricardo had been building for the past fourteen years fell apart. Patricia and Dylan continued their journey, while Ricardo endured a harrowing period of confinement in a stash house. (*Exh. B*). When he finally crossed into the United States on December 16, 2020, he was quickly arrested by Border Patrol agents.

Need to Reflect the Seriousness of the Offense, Afford Deterrence, and Protect the Public

While any criminal offense is serious, Mr. Novondo-Ceballos's attempt to reenter the United States with his wife and child was a non-violent, *malum prohibitum* offense. By the time of the sentencing hearing, Mr. Novondo-Ceballos will have served half the time imposed in his prior Florida felony case. A time-served sentence of approximately ten months is therefore more than sufficient to reflect the seriousness of the offense of illegal reentry and deter Mr. Novondo-Ceballos from any future attempt to return to the United States without authorization.

⁴Stacy Stewart, National Hurricane Center Tropical Cyclone Report: Hurricane Iota, May 18, 2021, at 9. https://www.nhc.noaa.gov/data/tcr/AL312020_Iota.pdf

⁵ *Id.* at 13.

Mr. Novondo-Ceballos understands that his prior conviction will raise concerns for the court about the need to protect the public. He wants the Court to understand that he has worked hard to identify, examine, and correct the patterns in himself that led him to his terrible mistake in 2006. During his time at the Otero County Prison Facility, he has inquired about becoming an unpaid peer mentor in the prison's numerous classes for inmates, and designed solutions manuals for other inmates preparing for graduate equivalency degree tests in both English and Spanish. (*Exh. C*). Due to the nature of his prior conviction, he has been separated from other inmates almost continually. Each day of his current term of incarceration has caused him to confront his past anew.

A lengthy sentence is not necessary to deter Mr. Novondo-Ceballos from re-entering the United States in the future. This is particularly true because Mr. Novondo-Ceballos has never faced an immigration charge, or any other federal prosecution, before. Since his arrest, he has become familiar with the United States Sentencing Guidelines, and understands that his guidelines on a reentry offense are already quite high, and will only go up with each subsequent prosecution.

Mr. Novondo-Ceballos' current period of incarceration has taken a substantial toll on his family of origin, and he will not put them through a similar experience in the future. For his younger sister, Michelle, the emotional strain of Ricardo's imprisonment has exacerbated longstanding mental health concerns. Although she previously managed her anxiety successfully, she is now under a civil mental health commitment. (*Exh. B*). Even in the midst of her own crisis, she remained the point person for Ricardo's defense team, gathering letters, arranging phone calls, attempting to send project management

textbooks to Ricardo, and submitting photos for the Court's consideration. To his parents, Oscar and Julia, this term of incarceration has been a heartbreak and a reminder of their own prolonged separation from their sons a few decades ago. (*Exh. D and E*). The love and admiration Michelle and her husband Edwin Gaitan carry for Ricardo has made his incarceration incredibly painful for them. (*Exh. F*).

Simply put, incarceration causes havoc in marriages and relationships between parents and their children. Patricia and Dylan have endeavored to keep in contact with Ricardo by phone, rare video visits, and letters. (*Exh. G*). Like many families of incarcerated people, they have struggled with the strict rules for prison visits. One letter from Patricia to Ricardo was returned because she sprayed it with perfume. Later attempts to send him civil engineering textbooks to occupy his mind were fruitless as well. Their first successful video visit occurred in October 2021. Due to the ongoing COVID-19 pandemic, Ricardo appeared for the visit in a mask. The past ten months have caused a deep rift in their marriage. Even more challenging, Patricia struggles to manage the impacts of Ricardo's incarceration on their son. As a child psychologist, she is well-equipped to understand and respond to her son's needs, frequently asking him to draw pictures of his feelings as a healthy coping mechanism. (*Exh. H*). Nevertheless, Ricardo's childhood experiences taught him the importance of both parents being physically present to guide their children, and he understands that his prolonged incarceration is causing Dylan harm.

Nothing in Ricardo's future is certain, except his understanding that he cannot re-enter the United States. With all their loved ones living in the southern United States,

and Honduras in shambles, Ricardo and Patricia have not yet decided whether he will return to Honduras alone. It is highly likely that Patricia and Dylan will abandon their applications for legal status in the United States to join him. Inevitably, Ricardo will be deported at the conclusion of his sentence. Whether Patricia follows him or not, he will start anew in Honduras. This incredibly painful uncertainty will present the biggest test of Ricardo's faith to date.

V. Conclusion

WHEREFORE, Mr. Novondo-Ceballos asks this Court to find that a sentence of time served would be sufficient, but not greater than necessary to satisfy the purposes of sentencing.

Respectfully submitted,

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Electronically filed (November 2, 2021)

By: /s/ Lynne McMullen

Lynne McMullen

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